

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

JOYCE ACKERMAN, et al.,

Plaintiffs,

:

Case Nos. 3:00-cv-277
3:04-cv-033

-vs-

District Judge Walter Herbert Rice
Chief Magistrate Judge Michael R. Merz

:

FORTIS BENEFITS INSURANCE CO.,

Defendants.

REPORT AND RECOMMENDATIONS

These cases are before the Court Plaintiffs' Notice of Appeal to the Sixth Circuit Court of Appeals from this Court's denial of their Motion for Grand Jury review and their Motion to Proceed on that appeal *in forma pauperis* (Doc. Nos. 133 and 134 in 3:00-cv-277; Doc. Nos. 79, 80 in 3:04-cv-033).

Because, as this Court has repeatedly held and the Sixth Circuit has determined, all of Plaintiffs' claims have long since been decided against them and are now *res judicata*. any further appeal would be frivolous and leave to pursue that appeal *in forma pauperis* should be denied.

Plaintiffs are again cautioned against filing further documents in violation of their obligations under Fed. R. Civ. P. 11. Further frivolous filings will result in new sanctions under that Rule.

October 27, 2008.

s/ **Michael R. Merz**
Chief United States Magistrate Judge

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within ten days after being served with this Report and Recommendations. Pursuant to Fed. R. Civ. P. 6(e), this period is automatically extended to thirteen days (excluding intervening Saturdays, Sundays, and legal holidays) because this Report is being served by one of the methods of service listed in Fed. R. Civ. P. 5(b)(2)(B), (C), or (D) and may be extended further by the Court on timely motion for an extension. Such objections

shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendations are based in whole or in part upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within ten days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See United States v. Walters*, 638 F. 2d 947 (6th Cir., 1981); *Thomas v. Arn*, 474 U.S. 140, 106 S. Ct. 466, 88 L. Ed. 2d 435 (1985).